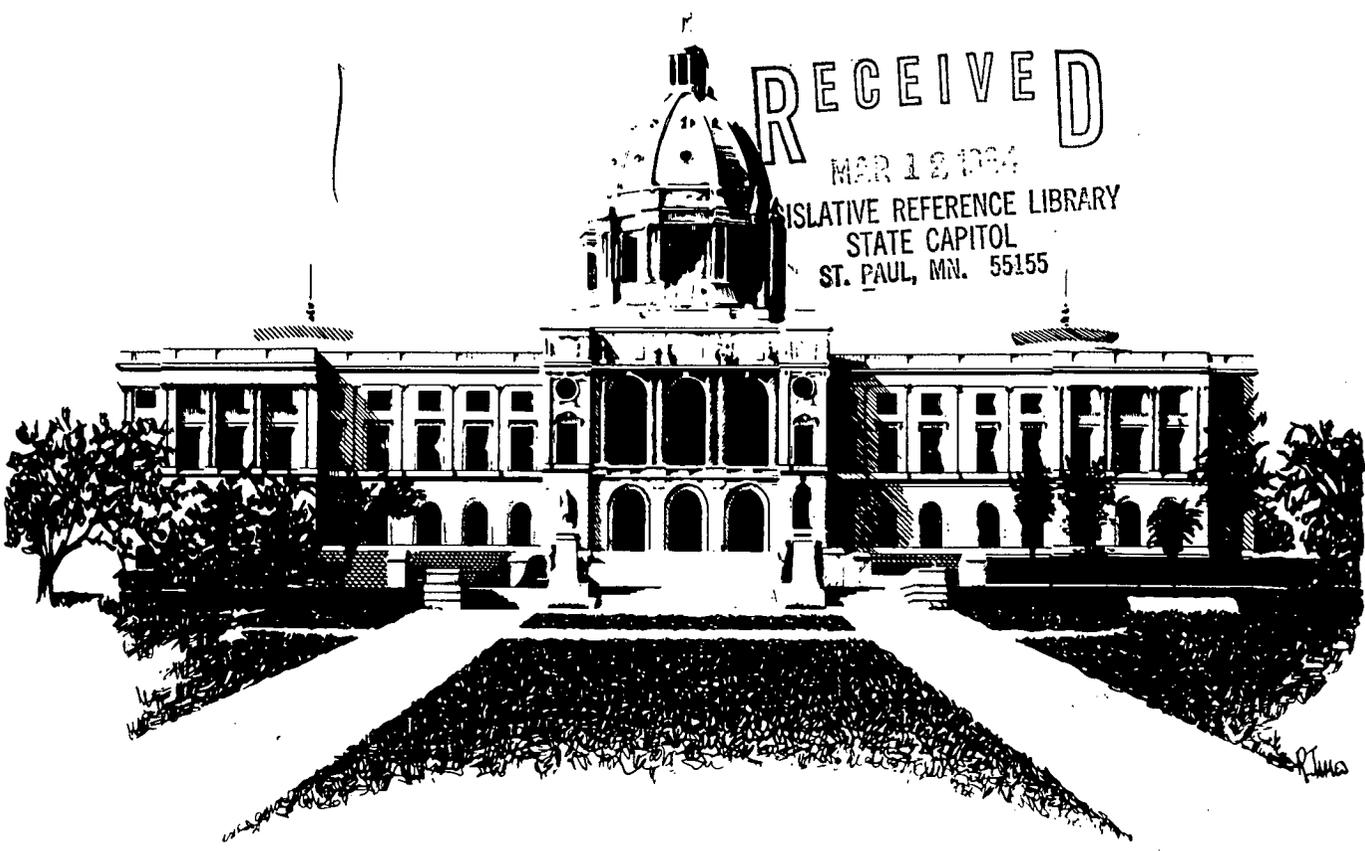


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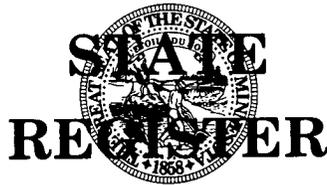
STATE OF MINNESOTA



VOLUME 8, NUMBER 37

March 12, 1984

Pages 2005-2040



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 8			
38	Monday Mar 5	Monday Mar 12	Monday Mar 19
39	Monday Mar 12	Monday Mar 19	Monday Mar 26
40	Monday Mar 19	Monday Mar 26	Monday Apr 2
41	Monday Mar 26	Monday Apr 2	Monday Apr 9

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The **PROPOSED RULES** section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The **ADOPTED RULES** section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. **ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES** filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in spring of 1984. In the **MCAR AMENDMENT AND ADDITIONS** listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the **MCAR AMENDMENTS AND ADDITIONS** list on the following schedule:

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Issues 14-25, inclusive

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PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
 2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
 3. of the manner in which persons shall request a hearing on the proposed rules;
- and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Housing Finance Agency

Proposed Rules Governing Income Limits for New and Existing Construction Loans and the Homeownership Assistance Fund

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules within the 30-day comment period. The rule may be modified as the result of comments received if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 14.13 *et. seq.* If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Kathleen J. Johnson.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as any individual:

PROPOSED RULES

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) 296-5615.

March 9, 1984

James J. Solem
Executive Director

Rules as Proposed

12 MCAR § 3.002 Definitions.

A.-N. [Unchanged.]

O. "Persons and families of low and moderate income" means:

1. with respect to limited-unit mortgage loans pursuant to chapter 4 of these rules (except for loans issued under 12 MCAR §§ 3.037 and 3.038), development cost loans pursuant to chapter 3 of these rules, planning grants pursuant to chapter 5 of these rules, and American Indian housing loans pursuant to chapter 8 of these rules, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned unit development or a condominium, those persons and families whose adjusted income does not exceed the amounts set forth in ~~Exhibit 12 MCAR § 3.002 O.-1.~~ Exhibits 12 MCAR § 3.002 O.-3. and 12 MCAR § 3.002 O.-4. or such lower amount as shall be required to assure that the interest on obligations of the agency will be exempt from federal income taxation. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2.

Exhibit 12 MCAR § 3.002 ~~O.-1.~~ O.-3.

Maximum Adjusted Income for Loans for New Construction

<u>Mortgage Interest Rate</u>	<u>Nonmetropolitan Area Maximum Adjusted Income</u>	<u>Metropolitan Area Maximum Adjusted Income</u>
0-10.50%	\$19,000	\$24,000
10.60-11.09%	\$20,000	\$25,000
11.10-11.59%	\$21,000	\$26,000
11.60-12.00%	\$22,000	\$27,000
<u>0-10.00%</u>	<u>\$26,000</u>	<u>\$34,000</u>
<u>10.01-10.50%</u>	<u>\$27,000</u>	<u>\$35,000</u>
<u>10.51-11.00%</u>	<u>\$28,000</u>	<u>\$36,000</u>
<u>11.01-11.50%</u>	<u>\$29,000</u>	<u>\$37,000</u>
<u>11.51% and over</u>	<u>\$30,000</u>	<u>\$38,000</u>

Exhibit 12 MCAR § 3.002 O.-4.

Maximum Adjusted Income for Loans for Existing Construction

<u>Mortgage Interest Rate</u>	<u>Nonmetropolitan Area Maximum Adjusted Income</u>	<u>Metropolitan Area Maximum Adjusted Income</u>
<u>0-10.00%</u>	<u>\$21,000</u>	<u>\$31,000</u>
<u>10.01-10.50%</u>	<u>\$22,000</u>	<u>\$32,000</u>
<u>10.51-11.00%</u>	<u>\$23,000</u>	<u>\$33,000</u>

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.

PROPOSED RULES

11.01-11.50%
11.51% and over

\$24,000
\$25,000

\$34,000
\$35,000

2.-5. [Unchanged.]

P.-V. [Unchanged.]

12 MCAR § 3.133 Homeownership assistance fund.

A. Monthly assistance. The agency may provide eligible recipients with interest-free monthly assistance loans in the form of monthly payments of a portion of the principal and interest installment due on the limited-unit development mortgage on qualifying property. Such payments shall not exceed \$100 per month and shall decrease by \$10 per month or \$120 per year each year. The maximum amount of monthly assistance to which a recipient is originally entitled shall be determined by the agency from time to time on the basis of the percentage of income which may reasonably be spent on mortgage payments, the interest rate charged for limited-unit development mortgage loans, and general housing and construction costs in the state of Minnesota, provided however, that the initial maximum monthly assistance which the agency shall determine to be available shall not exceed the following amounts for persons and families within the following annual adjusted income ranges as set forth in Exhibit 12 MCAR § 3.133 B.-1. and Exhibit 12 MCAR § 3.133 C.-2. for various potential interest rates to be charged by the agency on its limited-unit development mortgage loans.

B. Metropolitan area. Exhibit 12 MCAR § 3.133 B.-1. applies to eligible recipients whose qualifying property is in the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2.

Exhibit 12 MCAR § 3.133 B.1.

Mortgage Interest Rate		Initial Maximum Monthly Assistance				
		\$100	\$80	\$60	\$40	\$20
0-10.59%	Adj. Hshld. Income	0-15000	15001-16000	16001-17000	17001-18000	18001-19000
10.60-11.09%	Adj. Hshld. Income	0-16000	16001-17000	17001-18000	18001-19000	19001-20000
11.10-11.59%	Adj. Hshld. Income	0-17000	17001-18000	18001-19000	19001-20000	20001-21000
11.60-12.00%	Adj. Hshld. Income	0-18000	18001-19000	19001-20000	20001-21000	21001-22000
0-10.00%	Adj. Hshld. Income	0-19,000	19,001-20,000	20,001-21,000	21,001-22,000	22,001-23,000
10.01-10.50%	Adj. Hshld. Income	0-20,000	20,001-21,000	21,001-22,000	22,001-23,000	23,001-24,000
10.51-11.00%	Adj. Hshld. Income	0-21,000	21,001-22,000	22,001-23,000	23,001-24,000	24,001-25,000

C. Nonmetropolitan area. Exhibit 12 MCAR § 3.133 C.-2. applies to eligible recipients whose qualifying property is not in the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2.

Exhibit 12 MCAR § 3.133 C.-2.

Mortgage Interest Rate		Initial Maximum Monthly Assistance				
		\$100	\$80	\$60	\$40	\$20
0-10.59%	Adj. Hshld. Income	0-10000	10001-11000	11001-12000	12001-13000	13001-14000
10.60-11.09%	Adj. Hshld. Income	0-11000	11001-12000	12001-13000	13001-14000	14001-15000
11.10-11.59%	Adj. Hshld. Income	0-12000	12001-13000	13001-14000	14001-15000	15001-16000
11.60-12.00%	Adj. Hshld. Income	0-13000	13001-14000	14001-15000	15001-16000	16001-17000

PROPOSED RULES

<u>0-</u> <u>10.00%</u>	<u>Adj. Hshld.</u> <u>Income</u>	<u>0-</u> <u>13,000</u>	<u>13,001-</u> <u>14,000</u>	<u>14,001-</u> <u>15,000</u>	<u>15,001-</u> <u>16,000</u>	<u>16,001-</u> <u>17,000</u>
<u>10.01-</u> <u>10.50%</u>	<u>Adj. Hshld.</u> <u>Income</u>	<u>0-</u> <u>14,000</u>	<u>14,001-</u> <u>15,000</u>	<u>15,001-</u> <u>16,000</u>	<u>16,001-</u> <u>17,000</u>	<u>17,001-</u> <u>18,000</u>
<u>10.51-</u> <u>11.00%</u>	<u>Adj. Hshld.</u> <u>Income</u>	<u>0-</u> <u>15,000</u>	<u>15,001-</u> <u>16,000</u>	<u>16,001-</u> <u>17,000</u>	<u>17,001-</u> <u>18,000</u>	<u>18,001-</u> <u>19,000</u>

12 MCAR § 3.134 Homeownership assistance fund; downpayment assistance.

The agency may provide interest-free downpayment assistance loans to eligible recipients eligible for monthly homeownership assistance who are determined, on the basis of normal credit procedures, to lack the cash or land equity necessary to pay the required downpayment, plus closing costs, expenses, and origination fees on the dwelling to be purchased. The amount of the downpayment assistance loan shall equal the amount by which the sum of the downpayment, closing costs, expenses, and origination fees exceeds five percent of the purchase price of the dwelling, but it shall not exceed the lesser of 50 percent of the downpayment of \$1,500.

Board of Peace Officer Standards and Training

Proposed Rules Governing License Fees for Peace Officers, Part-time Peace Officers, and Constables

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Board of Peace Officer Standards and Training proposed to adopt the above-entitled rule without a public hearing. The board has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21-14.28.

Persons interested in this rule shall have 30 days to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required the agency will proceed according to the provisions of Minnesota Statutes sections 14.13-14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Mark K. Shields
Board of Peace Officer Standards and Training
333 Sibley Street, Suite 495
St. Paul, Minnesota 55101
(612) 296-2620

Authority for the adoption of this rule is contained in MN. Stat. sections 214.06, 16A.128 Subd. 2, and Minn. Stat. § 14.21-14.28. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Board upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written statement of such request to the above address.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

A copy of the proposed rule is attached to this Notice.

Free copies of this Notice and the proposed rule are available and may be obtained by contacting the Board of Peace Officer Standards and Training.

Mark K. Shields, Executive Director
Board of Peace Officer Standards and Training

Rules as Proposed

4 MCAR § 13.028 Licensing of peace officers.

A.-C. [Unchanged.]

D. Licensing fee. The appropriate licensing fee is ~~\$10~~ \$15 if the licensee is to be licensed for 30 to 36 months; ~~\$6.66~~ \$10 if the licensee is to be licensed for at least 18 months but less than 30 months; and ~~\$3.33~~ \$5 if the licensee is to be licensed for at least six months but less than 18 months. No fee is owing if the applicant is to be licensed for less than six months.

E. [Unchanged.]

4 MCAR § 13.030 License renewal.

A. and B. [Unchanged.]

C. Certificate of renewal. The executive director shall issue a certificate of renewal, which is valid for three years, to each applicant who has submitted the appropriate fee on or before June 30 of the year when the license becomes due for renewal and also completed the required hours of continuing education.

1. The appropriate fees are:

- a. ~~\$10~~ \$15 for renewal of a peace officer license;
- b. ~~\$5~~ \$7.50 for renewal of a part-time peace officer license; and
- c. ~~\$10~~ \$15 for renewal of a constable license.

2. The required hours of continuing education are:

- a. No hours for any part-time peace officer or for a peace officer or constable who has been licensed for less than six months;
- b. Sixteen hours for a peace officer or constable who has been licensed for at least six months but less than 18 months, no more than two of which consists of on-line shooting;
- c. Thirty-two hours for a peace officer or constable who has been licensed for at least 18 months but less than 30 months, no more than four of which consist of on-line shooting; and
- d. Forty-eight hours for a peace officer or constable who has been licensed for at least 30 months, no more than six of which consist of on-line shooting.

D. [Unchanged.]

4 MCAR § 13.031 Licensing of part-time peace officers.

A.-H. [Unchanged.]

I. Issuance of license. The executive director shall issue a part-time peace officer license to a provisionally licensed part-time peace officer who has passed the part-time peace officer licensing examination, submitted a written application for licensure, and paid the appropriate licensing fee. The period of initial licensure is determined by the initial letter of the licensee's surname, the date of expiration being determined by the provisions of 4 MCAR § 13.030 A. The appropriate licensing fee is ~~\$5~~ \$7.50 if the license is valid for at least 30 months but less than 36 months; ~~\$3.33~~ \$5 if it is valid for at least 18 months but less than 30 months; and ~~\$1.66~~ \$2.50 if it is valid for at least six months but less than 18 months. No fee is required if the applicant is to be licensed for less than six months.

J. and K. [Unchanged.]

4 MCAR § 13.032 Constables.

A.-F. [Unchanged.]

G. Issuance of license. The executive director shall issue a constable license to a provisionally licensed constable who has passed the constable licensing examination, submitted a written application for licensure, and paid the appropriate licensing fee. The period of initial licensure is determined by the initial letter of the licensee's surname, the date of expiration being determined by the provisions of 4 MCAR § 13.030 A. The appropriate licensing fee is ~~\$10~~ \$15 if the license is valid for at least

30 months but less than 36 months; ~~\$6.66~~ \$10 if it is valid for at least 18 months but less than 30 months, and ~~\$3.33~~ \$5 if it is valid for at least six months but less than 18 months. No fee is required if the applicant is to be licensed for less than six months.

H. and I. [Unchanged.]

Effective date. These rules are effective July 1, 1984.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

Department of Commerce**Adopted Temporary Rules Governing Joint Self-Insurance Employee Health Plans**

The rules proposed and published at *State Register*, Volume 8, Number 24, pages 1387-1395, December 12, 1983 (8 S.R. 1387) are adopted with the following modifications:

Temporary Rules as Adopted**4 MCAR § 1.852 [Temporary] Scope.**

The following are subject to the requirements of 4 MCAR §§ 1.850-1.866 [Temporary]:

C. insurance companies licensed under Minnesota Statutes, section 60A.07, subdivision 4, or service plan corporations licensed under Minnesota Statutes, section 62C.08, that provide required stop-loss coverage to a plan.

4 MCAR § 1.853 [Temporary] Definitions.

For the purposes of 4 MCAR §§ 1.850-1.866 [Temporary], the terms in A.-W. have the meanings given them unless the context clearly indicates a different meaning.

K. Insurer. "Insurer" means an insurance company licensed under Minnesota Statutes, section 60A.07, subdivision 4, and authorized by Minnesota Statutes, section 60A.06 to write the kind of insurance offered or a service plan corporation licensed under Minnesota Statutes, section 62C.08.

Q. Reinsurer. "Reinsurer" means an insurance company or service plan corporation providing stop-loss coverage, notwithstanding that primary coverage provided through a self-insurance plan is not insurance.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

Department of Human Rights

Adopted Temporary Rules Governing Case Processing Policies and Procedures, and Restrictions for Apprenticeship Programs

The rules proposed and published at *State Register*, Volume 8, Number 24, pages 1395-1399, December 12, 1983 (8 S.R. 1395) are adopted with the following modifications:

Temporary Rules as Adopted

12 MCAR § 1.061 [Temporary] Definitions.

C. Answer. "Answer," as used in section 363.06, subdivision 8, means ~~information from a respondent, deemed relevant by the commissioner, in the respondent's initial written~~ reply to a charge which contains information sufficient to explain the respondent's defense.

H. Would be charge. "Would be charge" means written information received by the department that may become a charge of discrimination as defined in Hum Rts 1 and 102(a) but which lacks one or more of the required elements described in Hum Rts 1 and 102(a).

12 MCAR § 1.064 [Temporary] Priority charges.

C. Legal significance. A charge has legal significance if the commissioner ~~believes~~ determines it raises an issue that may provide a legal precedent that will further the purpose of the act.

12 MCAR § 1.066 [Temporary] ~~Conciliation; agreement~~ Predetermination settlements.

A. ~~Conciliation. After a finding of probable cause, the commissioner may invite the respondent to conciliate the matter. The invitation shall describe the conciliation process and may propose a remedy to resolve the proceedings. After permitting the respondent 15 days to respond to the invitation, the commissioner may issue a complaint according to Minnesota Statutes, section 363.06, subdivision 4, clause (3).~~

B. ~~Agreement. If, at any time, the department and the parties agree on a resolution of the proceedings, the terms of the resolution shall be made a part of a settlement agreement.~~

After the respondent and the charging party have signed, the commissioner shall sign the agreement for the department. Execution of the agreement terminates the formal proceedings, subject to monitoring of the agreement by the department. Any time prior to a determination, the commissioner or a party to a charge may propose terms to settle a charge. A predetermination settlement may consist of terms similar to those authorized in Hum Rts 106(c).

12 MCAR § 1.070 [Temporary] Monitoring.

The department shall monitor all settlement agreements. If the commissioner believes a respondent may not have complied with an agreement, the department shall notify the respondent ~~in writing~~ by certified mail. The notice shall specify the part of the agreement the respondent is believed to have violated. After permitting the respondent 15 days after the receipt of the notice to respond, the commissioner may begin proceedings to enforce the settlement agreement.

12 MCAR § 1.071 [Temporary] Reopening certain cases.

B. Respondent; notice to; information from. The commissioner shall promptly notify the respondent ~~in writing~~ by certified mail of the request. The respondent has ten days from the receipt of the notice to provide the department with pertinent information in writing on reopening the proceedings.

12 MCAR § 1.077 [Temporary] Rules temporarily superseded.

During the period that 12 MCAR §§ 1.061-1.076 [Temporary] are effective, the following rules are superseded: Hum Rts 9, 52, 53, 54, 55, 56, 57, 58, 59, 102(c), 104(b), 105(a), (c)-(h), 111, 112, 113, 114, 115, 116, 117, and 118.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Commerce

Outside Opinion Sought Regarding Proposed Rules Relating to Joint Self-Insurance Employee Health Plans Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing joint self-insurance employee health plans. Promulgation of these rules is authorized by Minnesota Statutes, section 60H.06.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: John Klein, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-3238.

All statements of information and comment shall be accepted until April 11, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Energy and Economic Development Community Development Division

Comments Sought on the Proposed Final Statement for the Small Cities Community Development Block Grant Program

Notice is hereby given that the Minnesota Department of Energy and Economic Development, Community Development Division, is seeking comments or opinions from sources outside the agency in preparing to submit the Final Statement for the Small Cities Community Development Block Grant Program. The Final Statement will be submitted to the U.S. Department of Housing and Urban Development by March 31, 1984.

The Final Statement will consist of the Administrative Rules Governing the Community Development Block Grant Program, which are found at 10 MCAR § 1.500-1.565 and were published as adopted in the *State Register* on November 28, 1983 (8 S.R. 1263-1268); a description of the use of funds in the 1983 grant program; and an assessment of the relationship of the use of funds to the community development objectives in 10 MCAR § 1.500-1.565 and to the requirements of section 104(b)(3) of the U.S. Housing and Community Development Act of 1974, as amended (P.L. 97-35).

The Minnesota Department of Energy and Economic Development, Community Development Division, requests comments or opinions concerning the assessments of the 1983 grant program. Interested or affected persons, groups, or units of general local government may submit statements or comment orally or in writing. Written statements should be addressed to:

Michael J. McMahon, Director
Fiscal Operations, Community Development
Minnesota Department of Energy and Economic Development
940 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-2102 and in person at the above address.

All statements and comments shall be accepted until 4:30 p.m., March 26, 1984. Statements and comments will be included as part of the Final Statement submitted to the U.S. Department of Housing and Urban Development.

OFFICIAL NOTICES

Description of the Use of Funds in the 1983 Small Cities Community Development Block Grant Program:

During the 1983 grant program, \$21,861,680 in federal funds were available for grants to eligible applicants for the Small Cities Development Program. Under the administrative rules for the 1983 program, 55 percent of the funds were available for comprehensive grants and 45 percent were available for single purpose grants. Within the allocation for single purpose grants, 20 percent of the funds were reserved for each of the single purpose types of projects (housing, public facilities, and economic development) with the remaining 40 percent awarded on a competitive basis among all single purpose types of applications. Thus, based on the funds available for grants, \$12,023,924 (55 percent) were reserved for comprehensive grants and \$9,837,756 (45 percent) were reserved for single purpose grants. A reserve of \$1,967,551 was set aside for each of the three types of single purpose grants.

Grant applications were accepted on February 1, 1983. Under the competitive review and ranking of applications, 45 grant awards were made on April 28, 1983. Of these awards, 24 applicants received comprehensive grants for a total of \$11,767,770 (54 percent of the total allocation). A total of 21 single purpose grants were awarded \$10,093,910 (46 percent). Within the single purpose category, nine housing grants (\$4,437,395), seven public facilities grants (\$3,450,629), and five economic development grants (\$2,205,886) were awarded.

The Department of Energy and Economic Development, Community Development Division, concludes that funds were awarded in accordance with the administrative rules for the 1983 grant year. Comprehensive grants were awarded slightly less than the target allocation because the budget required for the next highest ranked application exceeded the funds available for comprehensive grants.

Assessment of the Relationship of the Use of Funds to State and Federal Objectives:

For the 1983 grant program, the Minnesota Department of Energy and Economic Development, Community Development Division, adopted the federal objectives of the Housing and Community Development Act of 1974, as amended, as the objectives for Minnesota's program. 10 MCAR § 1.500.B. states, "The primary objective of this program is to develop viable urban communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low and moderate income. Activities funded under this program shall not benefit moderate income persons to the exclusion of low income persons. All funded activities must be designed to:

1. Benefit low and moderate income persons;
2. Prevent or eliminate slums and blight; or
3. Alleviate urgent community development needs caused by existing conditions which pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet those needs."

Under the federal regulations and the Housing and Community Development Act of 1974, as amended, which govern the 1983 program, up to 20 percent of the total block grant awarded to the State of Minnesota may be used for planning and administration activities. These activities include funds retained by the Minnesota Department of Energy and Economic Development, Community Development Division, for administration of the grant program and funds awarded to units of general local government for administration of their grants. All other funds were awarded to units of general local government for project-specific activities.

The assessment of the relationship of the use of funds to state and national objectives is presented in two parts. First, the total of state and local planning and administration funds is compared to the limit of 20 percent. Second, funds awarded for project-specific activities are compared to the three national objectives noted above. If a majority of the funds were awarded to benefit low and moderate income persons, the 1983 grant program will have met the test of principally benefitting persons of low and moderate income.

For the 1983 grant program, the Minnesota Department of Energy and Economic Development, Community Development Division, and 1983 grant recipients budgeted \$2,384,857 for planning and administration activities. These funds amount to 10.7 percent of the \$22,291,000 block grant, well under the 20.0 percent limit.

Under the grants awarded in the 1983 program, \$19,906,143 were budgeted for project-specific activities. Of these funds, \$17,014,457 (85.5 percent) were awarded for activities designed to benefit low and moderate income persons; \$5,324,492 (26.6 percent) for activities designed to prevent or eliminate slums and blight; and \$2,889,951 (14.5 percent) for activities designed to alleviate urgent community development needs. These figures total more than the \$22,291,000 block grant (or over 100 percent of the funds) because some activities are designed to address more than one national objective.

Based upon this analysis of the 1983 grant awards, the Minnesota Department of Energy and Economic Development, Community Development Division, concludes that the 1983 grant program fully meets the state and federal objectives. In particular, the activities funded by the 1983 grants are principally for persons of low and moderate income. The final analysis of

the 1983 grant program may show some variance with the above figures when actual expenditures are compared to state and national objectives; but such variances, if any, will be minor and will require approval by the Community Development Division.

Department of Education Minnesota State Advisory Council for Vocational Education

Notice of Council Meeting

The Minnesota State Advisory Council for Vocational Education will meet at 8:30 a.m. on Thursday, March 15, 1984, in Conference Room A & B, Student Center Building, Inver Hills Community College, Inver Grove Heights, Minnesota. The public is welcome. Inquiries regarding the meeting may be directed to the Council offices at 612/377-6100.

John W. Mercer, Executive Director

Department of Health Health Systems Division

Outside Opinions Sought Concerning a Request for a Waiver of HMO Statutes and Rules by Group Health Plan

Notice is hereby given that the Department of Health is seeking opinions and comments pertaining to a request by Group Health Plan for waiver of HMO statutes and rules regarding "Group Health Seniors"—"Medicare Multiple Choice Program for Minneapolis/St. Paul". Such waivers are authorized for demonstration projects by Minn. Stat. § 62D.30.

The request submitted by Group Health Plan is available for inspection during normal business hours at the following location.

HMO Unit
Room 217
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440

Comments on the application must be received at the HMO Unit by March 26, 1984.

Metropolitan Council

Review Schedule for Metropolitan Development Framework Transportation Development Guide/Policy Plan

The Metropolitan Council has prepared a proposed amendment to its regional Transportation Policy Plan (TPP). The purpose of the amendment is to revise the process for developing regional priorities for transit and highway projects.

The amendment includes estimates of costs and revenue for such projects. Under the amendment, project priorities, part of a TPP supplement, would be reviewed every year and updated every two years.

After adoption of the amendment, work would begin on setting up criteria and identifying priority transit and highway projects. The Council is expected to adopt the amendment in May of 1984 and the priorities by mid-1985.

OFFICIAL NOTICES

The following is the proposed schedule for adopting the TPP amendment.

SCHEDULE OF MEETINGS

February 14	—Program Development Committee Discussion
March 7	—Technical Advisory Committee Discussion and Action
March 14	—Metropolitan Systems Committee Adopts Hearing Draft with Recommended Hearing Date
March 15	—Transportation Advisory Board Discussion and Action
March 22	—Council Adopts Plan Amendment Hearing Draft for a Public Hearing Before the Metropolitan Systems Committee
March 23	—Mail Hearing Draft to Affected Agencies and Governments
April 25	—Metropolitan Systems Committee Holds Public Hearing
May 8	—Hearing Closes
May 16	—Metropolitan Systems Committee Action
May 24	—Metropolitan Council Adopts Amendment

Pollution Control Agency

Notice of Modification to Temporary List of Priorities Among Releases or Threatened Releases of Hazardous Substances, Pollutants or Contaminants

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is publishing for public comment proposed modifications to the Temporary List of Priorities among releases or threatened releases of hazardous substances, pollutants or contaminants for which the MPCA intends to take removal or remedial actions. The statutory basis for and an explanation of the MPCA's proposed Temporary List of Priorities is discussed below.

Pursuant to the Environmental Response and Liability Act, Minnesota Statutes, Chapter 115B (1983 Supplement) (ERLA) the MPCA is authorized to take any removal or remedial action which the MPCA deems necessary to protect the public health or welfare or the environment whenever there is a release or substantial threat of release from a facility of any pollutant or contaminant which presents an imminent and substantial danger or whenever a hazardous substance is released or there is a threatened release of a hazardous substance from a facility. The MPCA is required to establish by November 1, 1983, and modify as necessary, a temporary list of priorities among releases or threatened releases of hazardous substances, pollutants or contaminants. The MPCA will use money from a fund established by ERLA to take removal or remedial actions at the sites on the Temporary List of Priorities.

The Temporary List of Priorities, with any necessary modifications, will remain in effect until the MPCA adopts rules establishing state criteria for determining priorities among releases or threatened releases. After the rules are adopted, the MPCA will establish a permanent priority list. The MPCA is required to adopt its rules by July 1, 1984.

"Removal" actions are defined in ERLA to include cleanup or removal of released hazardous substances, pollutants or contaminants, actions necessary to monitor, test, analyze and evaluate releases or threatened releases, provision of alternative water supplies, security fencing, temporary evacuation and housing of threatened individuals and emergency assistance.

"Remedial" actions, on the other hand, are defined in ERLA to include actions consistent with permanent remedy instead of or in addition to "removal" actions.

Generally, removal or remedial actions will involve three phases: 1) investigation of the extent, magnitude and nature of the release or threatened release; 2) identification and determination of the most cost effective removal or remedial actions; and; 3) physical removal or remedial actions.

ERLA requires that the Temporary List of Priorities be based on "the relative risk or danger to public health or welfare or the environment, taking into account to the extent possible the population at risk, the hazardous potential of the hazardous substances at the facilities, the potential for contamination of drinking water supplies, the potential for direct human contact, the potential for destruction of sensitive ecosystems, the administrative and financial capabilities of the [MPCA], and other appropriate factors." Minnesota Statutes, Section 115B.17 Subdivision 13 (1983 Supplement).

An explanation of the development of the original Temporary List of Priorities, and the criteria for and process of listing sites may be found in 7 S.R. 1778 (June 13, 1983).

Based on the above considerations, the following modifications to the Temporary List of Priorities are offered for public comment. Underlining indicates additions and strike-outs indicate deletions.

**Environmental Response and Liability Act
Proposed Modifications to Temporary List of Priorities**

Response Action:	Site	HRS* Score	NPL	
Provide Potable Water	Reilly Tar & Chemical, St. Louis Park**	59.16	X	
	New Brighton/Arden Hills	59.16	X	
	LeHillier	42.49	X	
	<u>Long Prairie</u>	36		
	<u>South Andover</u>	35.41	X	
	<u>Adrian</u>	32		
Removal Action	Isanti Solvent Sites, Isanti ***	25.87		
	Arrowhead Refining Co., Duluth	40.30	P X	
	South Andover	35.41	X	
	Ecolotech, St. Paul ***	not ranked		
	Ecolotech, Minneapolis ***	not ranked		
Remedial Action	Above Ground Arsenic Storage (Generic)***	not ranked		
	Reilly Tar & Chemical, St. Louis Park	59.16	X	
	Medtronics, Inc./Onan Corp./Boise Cascade, Fridley	58.41	P X	
	Waste Disposal Engineering Sanitary Landfill Andover	50.92	X	
	Arsenic Site, Perham	38.01	P X	
	Arsenic Site, Wadena	25.21		
	Remedial and Removal Investigation and Feasibility Study	Reilly Tar & Chemical, St. Louis Park****	59.16	X
		New Brighton/Arden Hills ****	59.16	X
		Medtronic, Inc./Onan Corp./Boise Cascade, Fridley****	58.41	P X
		Interlake, Inc., Duluth ****	58	P X
Waste Disposal Engineering Sanitary Landfill, Andover****		50.92	X	
LeHillier****		43.49	X	
Arrowhead Refining Co., Duluth****		40.30	P X	
Arsenic Site, Perham****		38.01	P X	
Arsenic Site, Morris		37.99	P X	
<u>Long Prairie</u>		36		
<u>South Andover Site ****</u>		35.41	X	
<u>Adrian</u>		32		
Below Ground Arsenic Storage (Generic)***		not ranked		

* HRS means Hazard Ranking System. See 7 S.R. 1778 (June 13, 1983).

** No state funds will be expended for this proposed action because a "credit" is available for past expenditures under federal Superfund so that there will be 100 percent federal funding of this proposed action, and no public comments are solicited.

*** Only state Superfund monies will be expended on these projects.

**** Remedial and removal investigations and feasibility studies for site listed on the National Priority List (NPL) will be funded 100 percent by federal Superfund monies. No state funds will be expended for these proposed actions, and no public comments are solicited on these actions.

X Site on U.S. EPA NPL.

P Site is pending inclusion on NPL.

Additional information regarding specific projects on the proposed list may be obtained by contacting the Public Information Office, MPCA, 1935 West County Road B-2, Roseville, Minnesota 55113, (612) 296-7373.

The MPCA invites members of the public to submit written comments on the modifications to the Temporary List of Priorities. All comments should be submitted to and received by Michael J. Hansel, MPCA, Division of Solid and Hazardous Waste, 1935 West County Road B-2, Roseville, Minnesota 55113 no later than 4:30 p.m., April 5, 1984. All written comments will be considered by the MPCA in its modification of the Temporary List of Priorities.

OFFICIAL NOTICES

Department of Public Welfare Chemical Dependency Program Division

Notice of Intent to Identify the Need for a Competitive Bid Process on Existing Grants

The Chemical Dependency Program Division (CDPD) of the Department of Public Welfare is considering the continuation of two grant awards to the Minnesota Institute in the areas of prevention resources and drug education.

The CDPD will open these grants to competitive selection if requested to do so by a qualified potential vendor. The potential vendor must demonstrate its capability to deliver an equal or superior service at a comparable cost.

Potential vendors should submit a letter outlining their qualifications to provide the services described to Lee Gartner, 4th Floor, Centennial Bldg., St. Paul, MN 55155 no later than close of business (4:20PM) Monday, April 2, 1984. Applicants should indicate their interest in one or both areas.

The first of the two grants is the Minnesota Prevention Resource Center. The grant award will be approximately \$260,000 (\$25,000 in project income is also anticipated). The purpose of the Resource Center is to support community-based prevention efforts. Activities include the coordination of a network of locally-based resource persons providing 250 consultation or training events annually; maintenance of a distribution system for at least 60,000 pieces of print as well as audio-visual materials, sponsorship of a statewide conference for parents; management of one prevention media campaign; coordination with and involvement in the prevention efforts of other organizations such as the MN State High School League, the MN Department of Education, the Governor's DWI countermeasures task force, three newsletters per year to 12,000 persons. In addition, the vendor will be expected to update the materials in the current collection and develop new materials as needs are identified, and to maintain a recordkeeping system on grant related activity.

The second grant provides drug education classes under Minnesota Statutes, section 152.15. The grant award will be approximately \$90,000 plus \$20,000 in anticipated project income. The purpose is to provide 975 participants with four to five hours of drug education. Participants are referred by the court system as having been arrested for possession of a small amount of marijuana. The vendor will be expected to deliver classes in all areas of the state. The class must be consistent in content and approach and reflect the most current research findings concerning the effects and consequences of drug use and abuse.

In addition to arranging, coordinating and delivering the classes, the vendor must maintain relationships with the court and law enforcement system, keep confidential records, provide feedback to the referring courts, and maintain a secure system to ensure that the Bureau of Criminal Apprehension receives all necessary documentation on course completion in a timely manner.

Department of Transportation

Petition of Jackson County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Jackson County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a resurfacing project on CSAH 4 from the West County Line to the North Junction of CSAH 9.

The request is for a variance from 14 MCAR § 1.5032, H., 1., a., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit design speeds of 40 and 42 miles per hour instead of the required design speed of 45 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

March 2, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of Brainerd for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of Brainerd has made a written request to the Commissioner of Transportation for a variance from minimum street width standards for a reconstruction project on Northwest and Southwest Fourth Street from Florence Street to Washington Street.

The request is for a variance from 14 MCAR § 1.5032, H.,1.,c., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a street width of 44 feet instead of the required 46 feet.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

March 2, 1984

Richard P. Braun
Commissioner of Transportation

Water Resources Board

Notice of Hearing on the Proposed Enlargement of the Riley-Purgatory Creek Watershed District

A public hearing on a petition to enlarge the Riley-Purgatory Creek Watershed District by adding the drainage area of Bluff Creek, which is located within the Cities of Chanhassen and Chaska, will be held on March 22, 1984, beginning at 9:30 a.m. in the Council Chambers of the City of Chanhassen, 690 Coulter Drive, Chanhassen, Minnesota 55317. The hearing will be conducted by state hearing examiner, Thomas J. Jensen.

For more information, contact:

Mel Sinn, Executive Director
Water Resources Board
555 Wabasha Street, Room 206
St. Paul, Minn. 55102
(612) 296-2840

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount	Contact Person
79-000-41012	Power Sweeper	Transportation	Various	Contact buyer	Dale 296-3773
79-000-36677	Master Control Cabinets	Transportation	St. Paul	Contact buyer	Jim Kinzie 296-3778

STATE CONTRACTS

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount	Contact Person
55-000-87494	Cold Food Vending Machine	Service for the Blind	Minneapolis	Contact buyer	Cy 296-2621
29-008-32825	Rental of Photocopy Machine	DNR Southern Service Ctr	Same	Contact buyer	Doug 296-3775
Control	Ice Cream Products	MN Veterans Home	Mpls & Hastings		Harvey 296-3779
775599	1984 Fall Quarterly Class Schedule	Lakewood Comm. College	White Bear Lake	Contact buyer	Art 296-3742
27-154-40972	College Catalog 1984-86	Minneapolis Comm. College	Mpls	Contact buyer	Art 296-3742
775617					
27-151-35846					
79-000-41335	Diesel Truck Engine	Transportation	St. Paul	Contact buyer	Dale 296-3773
etc.					
SCH-169-H	Safety Caps & Liners	Transportation	Various	Contact buyer	Maurie 296-3772
26-176-02259	Purchase of Microfilm Reader/Printer & Accessories	Metropolitan State Univ.	Same	Contact buyer	Doug 296-3777
775930W	Meeting & Convention Cities Guide (Separations only)	Tourism	St. Paul	Contact buyer	Art 296-3742
22-400-00367					
79-500-02617	Bituminous Mix	Transportation	Minneapolis	Contact buyer	Jim Kinzie 296-3778
29-008-32846	Uniform Clothing	Natural Resources	St. Paul	Contact buyer	Linda 296-3725
775718	Deer License	Natural Resources	St. Paul	Contact buyer	Art 296-3742
29-000-35488	1984 Resident Bow & Arrow License				
775719,	1984 Resident Deer Firearms License	Natural Resources	St. Paul	Contact buyer	Art 296-3742
35482 & 3					
29-000-29000					
775725	Household Report Form	Public Welfare		Contact buyer	Art 296-3742
55-000-87513					
26-071-13752	Paper Cutter	Mankato State University	Mankato	Contact buyer	Bernadette 296-2546
79-000-41023	Bituminous Equipment	Transportation	Various	Contact buyer	Dale 296-3773
etc					
775929	Meeting & Convention Cities Guide	Tourism	St. Paul	Contact buyer	Art 296-3742
22-400-00366					
79-600-03171	Rental of Photocopy Machine	Transportation	Same	Contact buyer	Doug 296-3775
02-307-43428	Air Conditioner Compressor	Admin/Plant Mgmt	St. Paul	Contact buyer	Dale 296-3773
79-000-41335	Diesel Truck Engine	Transportation	Various	Contact buyer	Dale 296-3773
etc					
29-002-09371	Cage Wheel	Natural Resources	Soudan	Contact buyer	Dale 296-3773
29-008-32848	Caps, Baseball style	Natural Resources	St. Paul	Contact buyer	Alice 296-2546
29-000-35358,	Lease Purchase of Word Processing System	Natural Resources	Various	Contact buyer	Bernadette 296-2546
etc					
26-073-15456	Purchase of Photocopy Machine	St. Cloud State Univ.	Same	Contact buyer	Doug 296-3775
79-500-B	Hot Mix Bituminous-Mpls	Transportation	Same	Contact buyer	Jim Kinzie 296-3778
775943	DED Management Guide	Natural Resources	St. Paul	Contact buyer	Art 296-3742
29-000-35528					
29-000-35386	Aluminum	Natural Resources	St. Paul	Contact buyer	Maurie 296-3772
Contract	Amateur & Professional Films (Roll & Bulk)	Various	Various	45,000-50,000	Don 296-3777
Contract	Industrial Reproduction/Graphic Products (Film) Rebid.	Various	Various	1,500-2,000	Don 296-3777
02-430-43396	PBX & Station Equip.	Moose Lake Hospital	Moose Lake	Contact buyer	Don 296-3777

<u>Contract #</u>	<u>Item</u>	<u>Ordering Division</u>	<u>Delivery Point</u>	<u>Estimated Dollar Amount</u>	<u>Contact Person</u>
Contract	Retail Station-Super unleaded with 10% Ethanol (Gasohol)	Various	Various	Contact buyer	Ed 296-3770
26-074-08878	Rental of Photocopy Machine	Winona State Univ.	Same	Contact buyer	Doug 296-3775
29-003-07044	Seed (REBID)	DNR—Grand Rapids	Akeley	Contact buyer	Cy 296-2621
26-071-13746	Modulation Monitor	Mankato University	Mankato	Contact buyer	Don 296-3777
07-500-29226	Single Engine Airplane	Public Safety	St. Paul Downtown Airport	Contact buyer	Harvey 296-3779

**Department of Energy and Economic Development
Financial Management Division
District Heating Activity**

Notice of Request for Proposals to Develop District Heating Plan Marketing Workshop

The Financial Management Division of the Department of Energy and Economic Development solicits proposals from marketing firms and consultants who wish to work with the Financial Management Division in the development of a district heating marketing workshop for communities currently involved in developing plans for marketing district heating technology to potential customers. The workshop would be scheduled for late May 1984. It is anticipated that the workshop costs will not exceed \$5,000.

Further information and an official Request for Proposals may be obtained from Mary Lesch-Gormley, District Heating Program Coordinator, Department of Energy and Economic Development, Financial Management Division, 980 American Center Building, 150 E. Kellogg Blvd., St. Paul, MN 55101; Phone (612) 297-2324.

**Department of Energy and Economic Development
Office of the Commissioner**

Request for Proposals for Advertising Agencies

Pending legislative approval of the Minnesota Department of Energy and Economic Development marketing budget, the department is seeking proposals from agencies interested in competing for an advertising/communications and/or public relations contract through June, 1985.

The Department has a FY 1984 budget of \$140,000, which includes \$100,000 for advertising/communications and \$40,000 for public relations. The contract, which begins on May 1, 1984, will automatically be renewed on July 1, 1984, for an amount to be determined by the appropriation by the Minnesota State Legislature, and will run through June 30, 1985.

The contract covers the implementation of a marketing/communications plan developed by the Economic Development Marketing Task Force. The plan outlines approaches to advertising and public relations to enhance the state's economic development efforts. Agencies may bid for one or both sections (advertising and/or public relations).

Five (5) copies of an agency's proposal are due at the Minnesota Department of Energy and Economic Development Marketing Office, 980 American Center Building, 150 East Kellogg, St. Paul 55101 no later than 4:30 p.m. on April 2, 1984. Questions on the content of the proposal should be directed to Melinda McLaughlin, Marketing Director, (612) 297-3059.

STATE CONTRACTS

The State of Minnesota is under no obligation to accept proposals and no contract will be finalized until such time as a marketing budget has received final legislative approval.

Ms. Melinda McLaughlin
Marketing Director
Minnesota Department of Energy and Economic Development
980 American Center Building
150 East Kellogg
St. Paul, MN 55101
(612) 297-3059

Minnesota Historical Society

Notice of Availability of Contracts for Services for National Register Nominations and Historic Preservation Surveys

It is anticipated that the Minnesota Historical Society will require the services of qualified contractors or consultants to conduct and administer cultural resource (standing structures only) surveys of 1) Morrison, Todd, Mille Lacs counties, 2) Steele, Freeborn, Mower counties, and 3) Carlton, Lake, St. Louis (southern portion outside Duluth) counties. Contracts one and two will begin approximately April 15, 1984 and continue for eight months. Estimated funds available are \$16,000 per contract. The third contract will be for approximately seven months; approximately \$14,000 is available for this purpose and will begin June 1, 1984. All surveys will be carried out in conformance with the State Historic Preservation Office's guidelines for county surveys (available from the Minnesota Historical Society Contract Officer).

It is also anticipated that the Minnesota Historical Society will require the services of qualified contractors or consultants to prepare nominations to the National Register of Historic Places for properties in 1) Cook and Hennepin counties, 2) a historic district in the City of Rochester, 3) Sherburne and Cottonwood counties, and 4) Otter Tail county. All contracts will run for four months and have an estimated \$3,500 available each for this purpose. Contracts one and two will begin April 15, 1984, and three and four, May 15, 1984.

Contractors on all surveys and National Register contracts will be responsible for all aspects of the survey and/or nomination work as well as enlisting and documenting the assistance of identified local organization.

Requirements:

1. B.A. in history, historic preservation, architectural history, or closely related field and knowledge of Minnesota history.
2. A valid Minnesota driver's license.
3. Demonstrated experience in researching, identifying, locating and documenting historic standing structures in Minnesota.
4. Have successfully prepared a National Register form for property that has been placed on the Register within the last five years.

Qualified contractors/consultants should send proposal(s) (proposals should include a dollar bid and a proposed survey schedule, and should be limited to a maximum of two pages), resume, and completed National Register form to Gloria A. Thompson, Contract Officer, Minnesota Historical Society, 1500 Mississippi Street, St. Paul, Minnesota, 55101, no later than March 26, 1984. Call the Contract Officer at 296-8378 for further details. Award of any and all contracts is contingent upon availability of federal funds. The Minnesota Historical Society reserves the right to accept or reject any or all bids and to waive any irregularities therein.

Metropolitan Council

Invitation for Sealed Bids for Printing Consumer's Guide to Physicians

The Metropolitan Council, 300 Metro Square Bldg., St. Paul 55101, is requesting sealed bids to print the Consumer's Guide to Physicians.

Specifications for printing the publication can be obtained by contacting Nadine Farrington, publications unit, at 291-6478.

Sealed bids will be accepted by the Metropolitan Council until 4 p.m. March 12, 1984. The Council's purchasing officer will open the sealed bids publicly in the Council offices at 10 a.m. March 13, 1984.

All sealed bids shall be marked "Bids to print Consumer's Guide to Physicians—to be opened on March 13, 1984."

The Metropolitan Council reserves the right to reject any or all bids, and to waive any minor irregularity or deviation from the specifications.

Gerald J. Isaacs, Chair

Pollution Control Agency

Request for Proposals for Consultant Services for Environmental Impact Statement for Fuel Grade Alcohol Plant, Willmar, MN

The Minnesota Pollution Control Agency wishes to retain a consultant for the preparation of an Environmental Impact Statement (EIS) on the proposed construction of a fuel grade alcohol plant in Willmar, Minnesota. The proposed facility will utilize approximately 20 million bushels of grain feedstock per year and produce approximately 50 million gallons per year of fuel grade alcohol. The draft EIS is to be completed by September, 1984, with the final EIS to be done by December, 1984. It is estimated that the completion of the EIS may cost up to \$80,000.

Copies of the Request for Proposal and the scoping environmental assessment worksheet on the project are available from:

Clifford T. Anderson
Office of Planning and Review
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone 612/296-7796

Proposals must be submitted to the Minnesota Pollution Control Agency by April 2, 1984, or three weeks from the date of the first publication of this notice, whichever is later.

February 27, 1984

Sandra S. Gardebring
Executive Director

Pollution Control Agency

Request for Proposals for Consultant Services for Environmental Impact Statement, Koch Refining Company Expansion

The Minnesota Pollution Control Agency wishes to retain a consultant for the preparation of an Environmental Impact Statement (EIS) on the proposed expansion of Koch Refining Company in the Pine Bend Industrial District in the City of Rosemount. The existing refinery crude capacity of 137,000 barrels per day (BPD) is proposed to be expanded to 207,000 BPD to allow for increased production of gasoline, home heating oil, jet fuel, and asphalt. A draft EIS is to be completed by September, 1984, with the final EIS to be done by December, 1985.

It is estimated that the consultant services for the project EIS may cost up to \$125,000.

Copies of the Request for Proposal and the scoping environmental assessment worksheet on the project are available from:

Marlene Voita, Project Manager
Office of Planning and Review
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone 612/296-7794

Proposals must be submitted to the Minnesota Pollution Control Agency by April 2, 1984, or three weeks from the date of the first publication of this notice, whichever is later.

February 27, 1984

Sandra S. Gardebring
Executive Director

STATE CONTRACTS

Department of Public Welfare Chemical Dependency Program Division

Request for Proposals (RFP) for Inpatient or Outpatient Primary Chemical Dependency/Abuse Treatment Services for Adolescents (Persons 18 Years Old or Younger)

The Chemical Dependency Program Division (CDPD) of the Department of Public Welfare is soliciting proposals for the provision of inpatient or outpatient primary chemical dependency/abuse treatment services for persons age 18 or younger. A total of \$180,000 is available for three (3) or more grantees; no more than \$70,000 will be granted to any one individual or county. The funded projects will begin on July 1, 1984 and continue until June 30, 1985 (12 month period).

These grant awards will be targeted for areas of Minnesota where there has been an identified lack of accessibility to primary treatment services for persons 18 years old or younger, where there is statistical evidence of high unemployment rates, and where the resident population has a lower incidence of health insurance coverage. For the above reasons, the seven county metro area (Ramsey, Dakota, Carver, Scott, Hennepin, Washington, Anoka) will not be considered for grant awards under this RFP.

All requests for further information or copies of the complete RFP should be addressed to Dorrie Hennagir at 612/296-4617.

Proposals in response to this RFP must be submitted on the CDPD grant application form. A copy of the application form can be obtained by contacting Ms. Hennagir at the above number. Six copies of the proposal must be in the CDPD office, 4th Floor, Centennial Office Building, 658 Cedar, St. Paul, Minnesota 55155, no later than 4:20 p.m. on April 23, 1984.

Department of Public Welfare Income Maintenance Bureau

Request for Proposals for Social Services to Refugees

Notice is hereby given that the Minnesota State Refugee Program Office, Department of Public Welfare, is seeking proposals concerning social services to refugees. The awards may only be granted to refugee mutual assistance associations/self help groups under the federal grant money restrictions. The total amount available for a 12 month period is \$334,700. The average grant award last year was \$30,000.

Priority services for funding will be (not in order): Employment-related services, English language training and other social services.

Priority target groups are Ethiopian, Ethnic Laotian, Cambodian, Hmong and Vietnamese. In addition refugee women are also a special needs group.

Responses must be received by March 23, 1984.

Direct inquiries to:

Sandra DuVander
Refugee Program Office
444 Lafayette Road
Space Center Bldg.
St. Paul, Minnesota 55101
(612) 296-1387

State Planning Agency Environmental Division

Request for Qualifications of Potential Proposers for Development of a Conceptual Design for a Hazardous Waste Incineration/Processing Facility in Minnesota

The Minnesota State Planning Agency is requesting qualifications of potential proposers for the development of a conceptual design for a hazardous waste incineration facility to be located in Minnesota.

This request for qualifications does not obligate the State to complete the project and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

The product of the project shall be a plan for the development of a hazardous waste incineration/processing facility, conceptual design of the facility, market assessment and preliminary assurances, and discussion of barriers to development with recommendations of how the State might remedy those barriers. The project will be coordinated with a related project for technical assistance and emissions research in hazardous waste incineration which will be carried out concurrently. A more detailed plan of study is available upon request.

I. Evaluation

Submitted qualifications by prospective proposers for the contract shall be evaluated on the basis of:

- ** Technical expertise in combustion/incineration technology as evidenced in the number of studies, plans, research, and development in the area of incineration of the proposed professional work force to be assigned to project;
- ** Previous experience in dealing with State and Federal environmental regulations relating to an incinerator and its emissions;
- ** Understanding of local and regional concerns of siting an incineration facility;
- ** Experience in design and operation of hazardous waste treatment/processing facilities;
- ** Verifiable expertise and experience of the proposed work force to be assigned to the project in the area of market and policy analysis for development of waste management facilities;
- ** Mathematical modeling experience to meet State and Federal emission standards or RCRA requirements in designing a combustion facility.

Consideration also will be given to the firm or group of firms indicating verifiable experience in planning, design, and operation of a hazardous waste incinerator which has received appropriate facility permits and is in substantial compliance with regulatory standards.

The Agency requests and encourages that all responses to the request for qualifications be as brief and concise as possible. Proposals for carrying out the conceptual design project may not and should not be submitted at this time. After the evaluation of qualifications, the most qualified responders may be invited to submit written proposals. Interviews to discuss proposals may follow.

II. Project Costs

The Agency has estimated that the cost of the conceptual design project will not exceed \$240,000 for professional services and expenses.

III. Project Schedule

The Agency anticipates that the conceptual design project will begin in June 1984 and will be completed in February 1985.

IV. Submission of Qualifications

Qualifications submission must be received by the Agency no later than Monday, April 9, 1984 at 4:30 p.m. Late submission will not be accepted. There must be six copies of the qualifications sealed in a mailing envelope or package with the responder's name and address clearly written on the outside.

V. Agency Contact

Prospective responders who have any questions regarding the request for qualifications may call or write: Linda Bruemmer, Environmental Division, State Planning Agency, 100 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, (612) 297-2375. Please note: Other Agency personnel are not allowed to discuss the project with responders before the submittal deadline.

STATE CONTRACTS

State Planning Agency Environmental Division

Request for Proposal for Technical Assistance and Emissions Research in Hazardous Waste Incineration

The State Planning Agency is requesting proposals for technical assistance and for emissions research in hazardous waste incineration. The project will be coordinated with a related project for the conceptual design of a hazardous waste incineration/processing facility in Minnesota.

This request for proposals does not obligate the State to complete the project and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

I. Scope of Project

The incinerative destruction of mixed streams of hazardous waste to extremely small quantities is at the forefront of present incineration technology. As new detection, sampling, and health risk limits are established, new standards for incineration processes will be developed. The State of Minnesota acknowledges that design, modification, operation, and regulation of a commercial hazardous waste incinerator requires a locally accessible high technology data and knowledge base.

The goal of this project is to create a local knowledge and data base directed at the design, modification, operation, and regulation of a hazardous waste incinerator in Minnesota. The project consists of two major components: review of state-of-the-art work in hazardous waste incineration and research in design of monitoring methodology to control air emissions. It is not intended that health risk studies be included in the research portion of this project.

II. Project Tasks

It is foreseen that the data and knowledge base will have future and ongoing value to incineration activities. For this reason, the results of the research component will be public information to be sustained and accessed by the State and the incineration design contractors.

A. Background Review of the State-of-the-Art of Hazardous Waste Incineration.

1. Consult with facility design contractor for specific technologies which should be included in the review.
2. Review literature on incineration technology, examine technological limits, and new technologies.
3. Contact operators of existing incinerators on a world-wide basis and U.S. EPA researchers for information on operations and studies in progress.
4. Communicate the results of the literature review and operator interview to the managing agency and facility design contractors in the form of an annotated bibliography.

B. Measurement of Low-Level Emissions

1. Develop the valid sampling techniques for detection and quantification of pollutants in an emission sample.
2. Develop the methodology and protocol to collect samples in a manner that is representative of the incineration process.
3. Generate and document a computerized database to model the monitoring methodology.

C. Technical Liaison with Managing Agency, Regulator, and Facility Design-Contractor on an Ongoing Basis.

1. Meet regularly with the Managing Agency and Facility Design Contractor.
 2. Consult with the Minnesota Pollution Control Agency on the emission standards.
 3. Communicate the background information on incineration to the Legislature as requested by the managing agency.
- Note: The contract will include a minimum number of scheduled meetings of the above-named groups and will require specific interim reports.

Responder may propose additional tasks or activities if they will substantially improve the results of the project.

III. Agency Contacts

Prospective responders who have any questions regarding this request for proposal may call or write: Linda Bruemmer, Environmental Division, State Planning Agency, 100 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, (612) 297-2375. Please note: Other Agency personnel are not allowed to discuss the project with responders before the submittal of proposal deadline.

IV. Submission of Proposals

All proposals must be sent to and received by Linda Bruemmer at the above address no later than 4:30 p.m., May 21, 1984. Late proposals will not be accepted. There must be six copies of each proposal and they are to be sealed in a mailing envelope or package with the responder's name and address clearly written on the outside. Prices and terms of the proposal as stated must be valid for the length of the project.

V. Project Costs

The Agency has estimated that the cost of this project should not exceed \$160,000 for professional services and expenses.

VI. Project Completion Date

The literature and facility review will be completed during the first three months of the project in order to be of value to the facility design contractor. A report on the low-level emissions methodology will be due in June 1985. Technical liaison and review committee work will be ongoing for the life of the project through June 1985.

VII. Proposal Contents

The following will be considered minimum contents of the proposal:

- a. A restatement of the project goal and tasks to demonstrate the responder's view of the nature of the project.
- b. Identification and description of the deliverables to be provided by the responder.
- c. A description of the responder's background and experience with particular emphasis on experience by the proposed professional work force to be assigned to the project in:

**** Applied emissions and combustion technology support. Applied rather than basic research background is preferred.**

**** The development of emissions and combustion technology.**

**** Emissions testing and data evaluation of non-criteria pollutants from incineration systems.**

**** Dealing with federal and state air emission standards and destruction and removal efficiency requirements for hazardous waste incineration systems.**

No changes in primary personnel assigned to the project will be permitted without specific written approval of the state project manager.

d. A detailed cost and work plan which shall identify the major tasks to be accomplished. This plan will be used as a scheduling and managing tool as well as a basis for invoicing.

e. A description of the extent of the Agency's participation in the project as well as any other services to be provided by the Agency.

VIII. Evaluation

All proposals received by the deadline will be evaluated by representatives of the State Planning Agency and its interagency advisory committee. If deemed necessary, an interview may be included in the evaluation process.

Factors upon which proposals will be judged include, but are not limited to the following:

- a. Expressed understanding of the project objectives.
- b. Project work plan.
- c. Project cost detail.
- d. Qualifications of both company and personnel.
- e. Degree of local accessibility to the data base. Preference will be given to physical location of personnel and data in Minnesota.

Experience of project personnel will be given greater weight than that of the firm. Evaluation and selection will be completed by June 4, 1984. Results will be sent immediately by mail to all responders.

STATE CONTRACTS

Department of Transportation Aeronautics Division Enforcement, Inspection & Safety Weather Equipment Installation

Request For Proposals For Weather Observation Station Design And Construction Engineering Services

This is a contract whereby the selected vendor provides design and construction engineering services for the installation of aviation weather station equipment at several Minnesota airports. The vendor must be experienced in providing design and engineering services for construction projects at public airports.

The estimated contract value is \$25,000.00.

Proposal information may be requested by contacting Roman Buettner at (612) 296-8057.

The response deadline is April 2, 1984.

March 2, 1984

Richard B. Keinz
Assistant Commissioner
Minnesota Department of Transportation
Aeronautics Division

SUPREME COURT

Decisions of the Court of Appeals Filed Wednesday, February 29, 1984

C9-83-1582 Sylvester B. Helmin, Relator v. Griswold Ribbon & Typewriter and Commissioner of Economic Security. Department of Economic Security.

When an employee voluntarily terminated his employment because his employer (a) failed to provide him with continuous health insurance coverage as promised and previously provided for 16 years; (b) failed to notify the employee of the insurance cancellation during the statutory conversion period; and (c) continued to withhold insurance contributions from the employee's paycheck, the termination is for good cause attributable to the employer.

Reversed. Popovich, Chief Judge.

CX-83-1140 Alfonso Rodriguez, Jr., Appellant v. State of Minnesota. Polk County.

The trial court properly allowed a previously hypnotized witness to testify about statements, portrait sketches, and photographic lineup identifications made by the witness prior to the hypnosis.

Prehypnotic recall testimony should only be admissible under the standards set forth in this opinion.

Affirmed. Popovich, Chief Judge.

C2-83-1729, C4-83-1795 OT Industries, Inc., Appellant (C2-83-1729), Respondent v. OT-tehdas Oy Santasalo-Sohlberg Ab, et al., Respondents, Appellants (C4-83-1795) and Larry M. Lawson, Respondent, (C4-83-1795). Ramsey County.

All three statutory elements of a franchise must be present for a franchise to come within the purview of the Minnesota Franchise Act.

A minimus volume requirement is not a disguised franchise fee where the required purchases are made at bone fide wholesale prices for valid business reasons.

When there is no required dollar amount or reserved right of approval, payments for advertising made to advertisers are ordinary business expenses, not franchise fees.

A contractual forum selection clause is not governed by the rules relating to venue and jurisdiction, but rather by rules of contractual defenses.

Affirmed. Lansing, Judge.

Decisions of the Supreme Court Filed Friday, March 2, 1984

Compiled by Wayne O. Tschimperle, Clerk

C3-82-1521 In the Matter of the Alleged Psychopathic Personality of John Anton Joelson. Hennepin County.

Affirmed in part, reversed in part, and remanded. Todd, J.

C5-83-963 John Wesley v. City of Detroit Lakes and Western National Mutual Insurance Company, et al., Relators. Workers' Compensation Court of Appeals.

The finding that employee was unable to work after September 1, 1982, because of his inability to find employment within his physical limitations and that he has been temporarily partially disabled after that date have sufficient evidentiary support.

Although a partially disabled employee has a duty to accept an offer of employment within his physical limitations, employee's refusal of such an offer does not bar him from later receiving compensation for temporary partial disability at his temporary total disability rate when he attempted in good faith to accept the offer within a reasonable time after its making and continued diligent efforts to find employment.

Affirmed. Coyne, J.

CX-82-1547 Steven Arneson v. Integrity Mutual Insurance Company, Appellant. McLeod County.

Noncompliance with the transfer provisions of Minn. Stat. § 168A.10 (1982) does not preclude the holder of title to a motor vehicle from presenting extrinsic evidence to establish that a sale has in fact occurred and that another is the "owner" of the motor vehicle for purposes of both Minn. Stat. § 170.54 and Minn. Stat. § 65B.48 (1982).

Reversed and remanded. Coyne, J.

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

State of Minnesota, Tax Court

**Sigwel Wood and Evelyn I. Wood, Appellants, v. The Commissioner of Revenue,
Appellee, Docket No. 3872**

Order

The above-entitled matter came on for hearing on February 17, 1984 at St. Paul, Minnesota, before the Honorable Earl B. Gustafson, Judge of the Tax Court, on the post-trial motion of Appellants for a hearing.

The Appellant, Sigwel Wood made no appearance having waived his right to oral argument.

The Appellee appeared through Thomas K. Overton, Special Assistant Attorney General.

All issues with one exception having been settled between the parties and the Court having no jurisdiction over the remaining constitutional issues **DOES HEREBY DENY THE MOTION.**

February 28, 1984.

By the Court,
Earl B. Gustafson, Judge
Minnesota Tax Court

State of Minnesota, Tax Court**Tension Envelope Corporation (Fins and Feathers Publishing Company), Appellant, v.
The Commissioner of Revenue, Appellee, Docket No. 3866****Findings of Fact, Conclusions of Law, and Order for Judgement**

This is an appeal from an Order of the Commissioner of Revenue dated March 18, 1983, denying a claim for refund of sales tax paid by the Appellant for the period August 1, 1980 through February 28, 1982. The matter came on for trial before the Honorable John Knapp, Chief Judge of the Minnesota Tax Court, in the courtroom of the Tax Court, Fifth Floor, Space Center Building, 444 Lafayette Road, St. Paul, Minnesota, on October 27, 1983. Briefs were subsequently submitted by both parties.

David L. Anderson, Esquire of the firm of Anderson and Strand, Suite 419, 6040 Earle Brown Drive, Brooklyn Center, Minnesota, appeared for Appellant.

Michele M. Mielke, Special Assistant Attorney General, appeared for Appellee.

The issue is whether or not special order red colored plastic window mailing envelopes and black and white business reply envelopes are subject to sales tax.

After having reviewed the evidence adduced at trial and the files and records herein, the Court now makes the following:

FINDINGS OF FACT

1. Fins and Feathers Publishing Company is incorporated in the State of Minnesota. Its principal place of business is Minneapolis, Minnesota.
2. Fins and Feathers Publishing Company publishes a magazine called Fins and Feathers Magazine, directed toward persons interested in outdoor sports such as hunting and fishing. Fins and Feathers Publishing Company from time to time engages in "direct mail" promotional efforts intended to add to the number of subscribers to its magazine.
3. During the period from August, 1980, through February, 1982, in Minneapolis, Minnesota, Tension Envelope Corporation manufactured and sold two types of envelopes to Fins and Feathers Publishing Company: a red colored plastic window mailing envelope and a smaller black and white business reply envelope.
4. On the outside of each red colored plastic window mailing envelope (the "outside envelope") sold, appears some white colored writing which is directed towards prospective subscribers to Fins and Feathers Magazine. The window feature of the envelope allows the envelope to be mailed to the name of the addressee printed on the materials which are inserted into the envelope.
5. The black and white envelope (the "reply envelope") is smaller than the red outside envelope. On its front is printed a "Business Reply Mail" heading, stating that postage has been paid by the addressee. The name of the addressee printed on each of the reply envelopes is one of several offices of Fins and Feathers Magazine located outside the State of Minnesota.
6. After Tension Envelope Corporation manufactures the envelopes, Tension Envelope Corporation, at Fins and Feathers Publishing Company's direction, delivers the envelopes to a mailshop called Carlson Companies, Promotion Fulfillment Division, (formerly the Maple Plain Company) located in Howard Lake, Minnesota.
7. Fins and Feathers Publishing Company has a business contract with the Minnesota mailshop whereby the mailshop, at Fins and Feathers Publishing Company's direction, mechanically stuffs the red outside envelopes with several mailing components. The mailing components include an introduction letter designed to develop interest in subscribing to Fins and Feathers Magazine, a four color brochure also designed to sell the features of the magazine and a subscriber savings card which a prospective subscriber may use to indicate his interest in subscribing to the magazine. Also inserted in the red outside envelope is the reply envelope, which is addressed to a business office of Fins and Feathers Publishing Company located in the same state as the prospective subscriber.
8. Fins and Feathers Publishing Company supplies mailing lists and other information to the Carlson Companies, directs the Carlson Companies to stuff the red outside envelopes with the promotional material and the business reply envelope, and to place the stuffed envelopes into the United States mail addressed to the people on the mailing lists.
9. The red outside envelopes are placed in the United States mail by the Carlson Companies after they are mechanically inserted with their contents.
10. When a prospective subscriber outside Minnesota receives the red outside envelope in the United States mail, he or she may open it or throw it away.
11. If the prospective subscriber outside Minnesota opens the red outside envelope, the black and white business reply

envelope he finds within the red envelope may be thrown away or it may be used by that person to apply by mail for a subscription to Fins and Feathers Magazine.

12. If a prospective subscriber outside Minnesota mails the business reply envelope back to the address printed on the front of the envelope, it arrives at a post office box of Fins and Feathers Publishing Company outside the State of Minnesota, in the state where the prospective subscriber lives.

13. When the business reply envelope arrives at a non-Minnesota post office box of Fins and Feathers Publishing Company, it is forwarded, unopened, by a commercial courier service to the mail processing and fulfillment department of Fins and Feathers Publishing Company in Minneapolis, Minnesota. There the envelopes are opened by employees of Fins and Feathers Publishing Company and the contents are sent to the data processing department of Fins and Feathers Publishing Company, also in Minneapolis, Minnesota, where the subscriber's name, address, and other pertinent subscription information is entered into the company's records.

14. Tension Envelope Corporation collected sales tax from Fins and Feathers Publishing Company for the sales of outside envelopes and reply envelopes during the period August, 1980 through February, 1982, in the total amount of \$5,654.38, which was paid to the State of Minnesota.

15. Tension Envelope Corporation (Fins and Feathers Publishing Company) filed a Claim for Refund for the sales taxes collected on the August, 1980 through February, 1982 sales of envelopes with the Commissioner of Revenue on June 17, 1982. Tension Envelope Corporation claimed that the sales of the outside envelopes and the business reply envelopes were exempt from sales taxation by the State of Minnesota.

16. By an Order dated March 18, 1983, the Commissioner of Revenue denied the Appellant's Claim for Refund.

17. The Memorandum herein is hereby made a part of these findings.

CONCLUSIONS OF LAW

1. The primary purpose of both types of envelopes was not advertising. The primary purpose of each type of envelope was that of the ordinary function of an envelope, namely a device for sending materials to a designated addressee through the United States mails.

2. The Order of the Commissioner of Revenue should be affirmed.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

February 27, 1984

By the Court,
John Knapp, Chief Judge
Minnesota Tax Court

State of Minnesota, Tax Court

**Bert E. and Shirin I. Fristedt, Appellants, v. The Commissioner of Revenue, Appellee,
Docket No. 3798**

Findings of Fact, Conclusions of Law, and Order for Judgment

This is an appeal from Orders of the Commissioner of Revenue issued November 5, 1982 and January 7, 1983, assessing additional income tax against the Appellants for tax years 1978 and 1979.

The above entitled matter was heard on October 27, 1983, beginning at 10 A.M. before the Honorable John Knapp, Chief Judge of the Minnesota Tax Court, at the Tax Court's hearing room in the Space Center Building, 444 Lafayette Road, St. Paul, Minnesota. The issue is the domicile of the Appellants for the tax years in question.

Bert E. Fristedt, one of the Appellants, appeared for the Appellants.

Michelle M. Mielke, Special Assistant Attorney General, appeared for Appellee.

SYLLABUS

Appellants have failed to carry the burden of proving an intent to change their domicile for the tax years in question.

The Court, having heard and considered the evidence adduced at trial and having reviewed the files and briefs herein, now makes the following:

FINDINGS OF FACT

1. The Appellants, Bert E. and Shirin I. Fristedt, are cash basis taxpayers. The issue in this case is Appellants' domicile for Minnesota income tax purposes for the 1978 and 1979 tax years.

TAX COURT

2. Appellant Shirin I. Fristedt lived in Minnesota for approximately 5 years prior to August, 1978. Appellant Bert Fristedt has been employed by the University of Minnesota as a professor in its mathematics department from 1965 to the present.
3. The Appellants Bert and Shirin Fristedt were married in March, 1978. Appellant Shirin Fristedt owned a home in Burnsville, Minnesota, in which the Appellants lived together, prior to August 16, 1978.
4. Prior to August 16, 1978, the Appellants were domiciled in Minnesota.
5. For the 1978-1979 academic year (from September 16, 1978 through June 15, 1979), Appellant Bert Fristedt was on a sabbatical furlough from the University of Minnesota. During this time Appellant Bert Fristedt received one-half his annual full-time base salary from the University of Minnesota.
6. As a condition for receiving the sabbatical furlough and accompanying one-half salary, Appellant Bert Fristedt agreed to return to his full-time duties at the University of Minnesota for at least the 1979-1980 academic year.
7. During the period from August 16, 1978 through June 27, 1979, Appellants lived in Liverpool, England.
8. During the period from August 16, 1978 through June 27, 1979, Appellant Bert Fristedt had no specific job duties at the University of Liverpool. He was engaged in research at the University of Liverpool, but did not hold a regular faculty position at the University of Liverpool.
9. During the period from August 16, 1978 through June 27, 1979, Appellant Bert Fristedt received monies to finance his research from the Science Research Council of the United Kingdom through the University of Liverpool. Appellants have not paid Minnesota income tax on these monies.
10. Appellants leased a house at 3 Hornby Lane in Liverpool, England, for an eleven month period beginning on September 1, 1978. Appellant Shirin Fristedt's daughter lived with the Appellants in Liverpool, England during this time period and attended school there.
11. During the period from August 16, 1978 through June 27, 1979, the Appellants did not vote in the United Kingdom.
12. During the summer of 1978, the Appellants had unsuccessfully tried to sell their Burnsville, Minnesota home, first by themselves and then through a realtor. During the fall of 1978 and winter of 1979, the Appellant's home in Burnsville, Minnesota was rented by the realtor on Appellant's behalf. In May, 1979, the Appellants' Burnsville home was sold.
13. During the period from August 16, 1978 through June 27, 1979, the Appellants stored their furniture and household goods in Minnesota.
14. During the period from August 16, 1978 through June 27, 1979, the Appellants retained their Minnesota drivers' licenses.
15. During the period from August 16, 1978 through June 27, 1979, the Appellants maintained a checking account at the Northwestern National Bank of Minneapolis and savings accounts at Twin City Federal Savings and Loan Association and the Minnesota State Capitol Credit Union.
16. During the period of his sabbatical furlough, Appellant Bert Fristedt's salary from the University of Minnesota was automatically deposited in Appellants' Northwestern National Bank of Minneapolis checking account.
17. Appellant Shirin Fristedt applied for and received a homestead credit on the Burnsville, Minnesota home for real estate taxes for the year 1978. She did not receive a homestead credit for real estate taxes for the year 1979.
18. During the period from August 16, 1978 through June 27, 1979, the Appellants owned two cars which were licensed in Minnesota. These cars were stored in Minnesota on supports with the wheels off.
19. During the period of their stay in England, the Appellants purchased a car for their personal use. This car was sold before the Appellants returned to the United States.
20. When Appellants left Minnesota in August, 1978, to go to Liverpool, England, they intended to return to Minnesota prior to the beginning of the 1979-1980 academic year at the University of Minnesota and had no intention of remaining in England for more than eleven months and less than ten months.
21. When the Appellants returned to Minnesota in 1979, they made arrangements to have a house built in Bloomington, Minnesota. While this house was being built, the Appellants rented an apartment in Richfield, Minnesota. Appellants moved into the house in Bloomington, Minnesota when construction was completed in 1980.
22. The Memorandum herein is hereby made a part of these Findings.

CONCLUSIONS OF LAW

1. Appellants Bert and Shirin Fristedt were domiciled in and were residents of the State of Minnesota for income tax purposes for the tax years 1978 and 1979.

2. The Orders of the Commissioner of Revenue at issue herein are correct and proper and should be affirmed in all respects.
LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

February 24, 1984

By the Court,
John Knapp, Chief Judge
Minnesota Tax Court

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